

No. 25-2120

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATIONAL TPS ALLIANCE, MARIELA GONZÁLEZ, FREDDY
JOSE ARAPE RIVAS, M.H., CECILIA DANIELA GONZÁLEZ
HERRERA, ALBA CECILIA PURICA HERNÁNDEZ, E.R.
HENDRINA VIVAS CASTILLO, A.C.A., SHERIKA BLANC, VILES
DORSAINVIL, and G.S.,
Plaintiffs-Appellees,

vs.

KRISTI NOEM, in her official capacity as Secretary of Homeland
Security, UNITED STATES DEPARTMENT OF HOMELAND
SECURITY, and UNITED STATES OF AMERICA,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA, NO. 3:25-CV-01766-EMC
HONORABLE EDWARD M. CHEN

**PLAINTIFFS-APPELLEES' MOTION TO TAKE JUDICIAL
NOTICE; DECLARATION OF AHILAN T. ARULANANTHAM IN
SUPPORT THEREOF**

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MOTION FOR JUDICIAL NOTICE

Under Federal Rule of Evidence 201, and in connection with Plaintiffs-Appellees' Answering Brief filed concurrently with this motion, Plaintiffs-Appellees National TPS Alliance, Mariela González, Freddy Jose Arape Rivas, M.H., Cecilia Daniela González Herrera, Alba Cecilia Purica Hernández, E.R., Hendrian Vivas Castillo, A.C.A., Sherika Blanc, Viles Dorsainvil, and G.S. move the Court to take judicial notice of the following documents:

Document 1: Administrative Record for the Venezuela Vacatur, *National TPS Alliance v. Noem*, No. 3:25-cv-1766-EMC, Dkt. Nos. 103, 103-1, 103-2, 103-3, 103-4, 103-5 (N.D. Cal. Apr. 7, 2025).

Document 2: Administrative Record for the Venezuela Termination, *National TPS Alliance v. Noem*, No. 3:25-cv-1766-EMC, Dkt. Nos. 104, 104-1, 104-2, 104-3 (N.D. Cal. Apr. 7, 2025).

Under Federal Rule of Evidence 201(d), judicial notice may be taken at any stage of the proceeding, including by an appellate court during the pendency of an appeal. Fed. R. Evid. 201(d); *Trigueros v. Adams*, 658 F.3d 983, 987 (9th Cir. 2011); *Lowry v. Barnhart*, 329 F.3d 1019, 1024 (9th Cir. 2003). Judicial notice is appropriate for any matter “not subject to reasonable dispute because it ... can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).

Records of administrative agencies are properly subject to judicial notice. *Papai v. Harbor Tug & Barge Co.*, 67 F.3d 203, 207 n.5 (9th Cir. 1995), *rev'd on other grounds*, 520 U.S. 548 (1997) (“Judicial notice is properly taken of orders and decisions made by other courts or administrative agencies.”); *Toth v. Grand Trunk R.R.*, 306 F.3d 335, 349 (6th Cir. 2002) (“[A] Court may take judicial notice of the rules, regulations and orders of administrative agencies issued pursuant to their delegated authority.”) (citation and quotations omitted).

For these reasons, the documents here satisfy the “essential prerequisite’ to taking judicial notice of adjudicative facts”—readily determinable accuracy. *Rivera v. Philip Morris, Inc.*, 395 F.3d 1142, 1151 (9th Cir. 2005) (quoting Fed. R. Evid. 201(a) advisory committee’s notes). As attested to in the concurrently filed Declaration of Ahilan T. Arulanantham, the Administrative Records for the Venezuela Vacatur and Termination were filed in the district court and are agency records provided by the agency. They were obtained from a source whose accuracy cannot be reasonably questioned, making them proper subjects of judicial notice. *See United States v. Raygoza-Garcia*, 902 F.3d 994, 1001 (9th Cir. 2018) (“A court may take judicial notice of undisputed matters of public record, which may include court records available through PACER.”).

Accordingly, Plaintiffs-Appellees respectfully request that the Court take judicial notice of Documents 1 and 2.

Dated: May 28, 2025

Respectfully submitted,

By: /s/ Ahilan T. Arulanantham

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CERTIFICATE OF COMPLIANCE

This brief complies with Circuit Rules 27-1(1)(d) and 32-3 because it contains 429 words, excluding the parts of the document exempted by Rules 27(a)(2)(B) and 32(f) of the Federal Rules of Appellate Procedure. The brief also complies with the typeface and typestyle requirements of Rules 32(a)(5)–(6) of the Federal Rules of Appellate Procedure because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Dated: May 28, 2025

Respectfully submitted,

By: /s/Ahilan T. Arulanantham
Ahilan T. Arulanantham

DECLARATION OF AHILAN T. ARULANANTHAM

I, Ahilan T. Arulanantham, declare as follows:

1. I am an attorney licensed to practice before this court. I am a Professor from Practice and Faculty Co-Director of the Center for Immigration Law and Policy (CILP) at UCLA School of Law, and counsel for Appellees in this action. I have personal knowledge of the matters set forth in this declaration and, if called to testify to them, I would be competent to do so.

2. Attached are true and correct copies of the following documents, which were filed by Defendants in the district court:

Document 1: Administrative Record for the Venezuela Vacatur, *National TPS Alliance v. Noem*, No. 3:25-cv-1766-EMC, Dkt. Nos. 103, 103-1, 103-2, 103-3, 103-4, 103-5 (N.D. Cal. Apr. 7, 2025).

Document 2: Administrative Record for the Venezuela Termination, *National TPS Alliance v. Noem*, No. 3:25-cv-1766-EMC, Dkt. Nos. 104, 104-1, 104-2, 104-3 (N.D. Cal. Apr. 7, 2025).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed on May 28, 2025, at Los Angeles, California.

By: /s/Ahilan T. Arulanantham
Ahilan T. Arulanantham

CERTIFICATE OF SERVICE

I certify that on May 28, 2025, I electronically filed this brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the ACMS system. All parties were served electronically through the ACMS system.

Dated: May 28, 2025

By: /s/Ahilan T Arulanantham
Ahilan T. Arulanantham